



To: Judges and Chief Probation Officers

From: Jane Seigel, Jenny Bauer and Bob Champion

Re: SEA 506 and SEA 205

Date: June 26, 2003

As most of you are aware, the governor signed SEA 506 (Probation User's Fees) and SEA 205 (Interstate Compact). These bills make significant changes in the area of probation. Many departments have contacted the Judicial Center with questions regarding the applicability and effect of these bills. The following is a summary of the changes made by both bills. The provisions in SEA 506 apply *only* to individuals who are placed on probation after June 30, 2003. You may access the text of these bills at http://www.in.gov/serv/lssa_billinfo. All changes are effective July 1, 2003. We will post a list of frequently asked questions on the Judicial Center website at <http://www.in.gov/judiciary/center/prob/index.html>.

SEA 506

Senate Enrolled Act 506 is commonly known as the probation user's fee bill. Senator Charles Meeks authored this bill and championed its passage through the General Assembly. Although SEA 506 increases probation user's fees, it also makes many more changes that affect the administration of probation for adults and juveniles.

With respect to juvenile probation, the user's fee statute is amended to increase the range of fees ordered for delinquents who receive supervision under [IC 31-37-19](#) to \$10-\$25 per month. The bill also adds an administrative fee of \$100 for delinquents if the delinquent child is supervised by a juvenile probation officer. The increased monthly user's fee and administrative fee do not apply to juveniles who participate in a program of informal adjustment ([IC 31-37-9-9](#) was not amended by the General Assembly). In addition, the bill amends [IC 31-40-2-2](#) (which sets forth the uses for money in the county supplemental juvenile probation services fund) to allow the county fiscal body to appropriate money from the fund to the court *to supplement* the salaries of juvenile probation officers. The former version of the statute allowed the funds to be used only to increase salaries.

With respect to adult probation, the user's fee statute ([IC 35-38-2-1](#)) is amended to increase the range of monthly user's fees for felons to \$15-\$30. The range of monthly fees for misdemeanants is raised to \$10-\$20. The bill also adds an administrative fee of

\$100 for felons and \$50 for misdemeanants. In addition, the bill amends the user's fee statute (the portions of the statute that set forth the uses for money in the county supplemental adult probation services fund and the local supplemental adult probation services fund) to allow the county, city or town fiscal body to appropriate money from the fund to the court *to supplement* the salaries of probation officers. The former version of the statute allowed the funds to be used only to increase salaries.

SEA 506 also makes numerous changes that apply to both juvenile and adult probation administration. The most significant change affects how the salaries of probation officers are set. The bill requires that the salary of a probation officer shall be fixed by the county, city or town fiscal body in accordance with the salary schedule adopted by the fiscal body under [IC 36-2-16.5](#). The fiscal body is required to consult with at least one judge of a court authorized to impose probation and at least one probation officer in adopting the salary schedule. This schedule must comply with the minimum compensation requirements adopted by the Judicial Conference of Indiana. *Please note that IC [36-2-16.5](#) applies to all counties, cities and towns that employ probation officers.*

The administrative fee created by this bill must be collected before any other fees are collected (the initial probation user's fee and monthly user's fees) and shall be deposited into the appropriate user fee fund. The administrative fee shall be used to pay for salary increases required under the Judicial Conference's 2004 minimum salary schedule. Any fees collected in excess of the amount required for the salary increases may be used in a manner permitted by the user fee statutes.

SEA 506 also makes several changes that affect the collection of fees. Probation user's fees may now be paid to either the probation department or the clerk. If the clerk collects the probation user's fees, the clerk may keep not more than 3% of the fee to defray the administrative costs of collecting the fee (this applies only when the clerk collects the user's fees). Additionally, if the clerk collects the user's fees, the county auditor, city fiscal officer or town fiscal officer may request that the clerk transfer not more than 3% of the fee to the county, city or town general fund. The clerk and auditor are not entitled to these percentages from the administrative fee. Probation user's fees may also now be paid by credit card. The bill authorizes probation departments and clerks to contract with outside vendors for acceptance of bank or credit cards. If there is a transaction charge or discount fee charged by the vendor, the probation department or clerk may collect a credit card service fee from the probationer. A probationer may choose to pay monthly user's fees before the date the payment is required without obtaining prior approval of the court or probation department. However, a person who pays probation user's fees in advance is not entitled to a refund if discharged early from probation.

Courts now have more tools available to enforce their orders to pay probation user's fees. An order to pay probation user's fees is a judgment lien that is not discharged by the completion of the person's probationary period. The court may also garnish the wages, salary or other income of the person to enforce the order. If a person is delinquent in paying probation user's fees and the person's driver's license or permit has been suspended or revoked or the person has never been issued a license or permit, the court may order the Bureau of Motor Vehicles to not issue a driver's license or permit to the person until the person has paid the delinquent user's fees.

If a probationer's financial ability to pay the fees changes during the period of probation, the probation department may petition the court to impose a user's fee (if a fee was not originally imposed) or increase the fee.

Finally, persons placed on probation for more than one crime or delinquent act may be required to pay more than one initial probation user's fee, but may not be required to pay more than one monthly user's fee. The former version of the statute did not allow imposition of more than one initial fee.

SEA 205

Senate Enrolled Act 205 is commonly known as the adult interstate compact bill. With the governor's signature, Indiana became the 43rd state to join the new Interstate Compact for Adult Offender Supervision. However, Indiana did not repeal its membership in the "old" compact in order to maintain relationships with the 7 states that have not yet joined the new compact.

The most significant change made by SEA 205 is the creation of a \$75 application fee for Indiana offenders on probation or parole who apply to have their supervision transferred to another state under the interstate compact. If the court finds the applicant to be indigent, the offender may pay a lesser fee. The statute requires probationers to pay the application fee to the county probation department; the fee is then transferred to the county treasurer. The treasurer shall deposit 50% of the money collected into the county supplemental adult probation services fund and shall transmit the remaining 50% to the Indiana Judicial Center for deposit in the general fund. The money for the Judicial Center is to cover the cost of administering the Interstate Compact for Adult Offender Supervision. Although the bill states that 50% of the application fee is sent to the Indiana Judicial Center, county auditors should send the IJC's portion of the fee to the state auditor biannually earmarked as adult interstate compact fees. If we get additional information on the deposit of these fees, we will send out an update.

Included in this mailing is a detailed memo on the interstate compact application fee and an acknowledgement form to be used when collecting the application fee.